



Office of the Attorney General

State of Texas

August 13, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. Tenley Aldredge
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR98-1929

Dear Mr. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117499.

Travis County (the "county") received a request for the personnel file of a particular individual. You contend that some information from the personnel file is excepted from disclosure under sections 552.101, 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Initially, we note that the submitted documents contain personal financial information that is excepted from disclosure under section 552.101 in conjunction with the common-law right to privacy. Section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses the common-law right to privacy. For information to be protected by the common-law right of privacy, the information must meet the criteria set out in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Id.* at 685. Personal financial information that does not relate to a financial transaction between an individual and a governmental body is protected by the common-law right to privacy. See Open Records Decision Nos. 600 (1992), 545 (1990). We have marked the personal financial information that the county must withhold from disclosure under section 552.101.

To the extent that the submitted documents contain criminal history information, the county must withhold such information from disclosure under section 552.101 as

information made confidential by law. Criminal history information obtained from the National Crime Information Center or the Texas Crime Information Center is generally confidential by law. 28 C.F.R. § 20; Gov't Code § 411.083.¹ Criminal history information that has been compiled by a governmental entity is protected by the common-law right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989).²

Section 552.117 excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See Open Records Decision No. 530* (1989) at 5. The submitted records indicate that the employee whose personnel file has been requested elected under section 552.024 to keep his home address, home telephone number, and social security number confidential. The employee made this election prior to the date on which the county received the request for his personnel file. Therefore, the county must withhold the employee's home address, home telephone number, and social security number from disclosure under section 552.117. We note that section 552.117 also excepts an employee's former home addresses and telephone numbers from disclosure. *See Open Records Decision No. 622* (1994).

Finally, you assert that some of the information in the submitted documents is excepted from disclosure under section 552.130. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

We have marked the information that the county must withhold from disclosure pursuant to section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

¹Please note that driving record information is not confidential under chapter 411 of the Government Code. *See Gov't Code § 411.082(2)(B)*.

²Because criminal history information is excepted from disclosure under section 552.101, we need not address your claim that section 552.108 also protects this information from disclosure.

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is fluid and cursive, with the first name "Karen" and last name "Hattaway" clearly distinguishable.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 117499

Enclosures: Marked documents

cc: Mr. Kevin R. Madison
Attorney at Law
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(w/o enclosures)